

ORIGINAL

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission  
RAIL SAFETY SECTION

CITY OF PEORIA, a municipal  
corporation,

v.

UNION PACIFIC RAILROAD  
COMPANY,

v.

STATE OF ILLINOIS, DEPARTMENT  
OF TRANSPORTATION.

Docket No. T01-0032

Petition of the City of Peoria, Illinois,  
to construct a viaduct bridge carrying the  
tracks of the Union Pacific over the  
extension of Charter Oak Road, Peoria  
County, Illinois and directing a  
substantial Portion thereof to be borne  
by the Grade Crossing Protection Fund.

**SECOND SUPPLEMENTAL PETITION FOR ADDITIONAL FUNDING**

NOW COMES the Petitioner, City of Peoria ("City"), Illinois, an Illinois Municipal Corporation, by and through its Assistant Corporation Counsel SONNI C. WILLIAMS and petitions the Illinois Commerce Commission ("Commission") for additional funding for the construction of a viaduct structure in the City of Peoria, Illinois and, in support thereof, states as follows:

1. On April 18, 2001, the City filed its Petition with the Commission in the above-captioned case requesting permission to construct a highway underpass structure to carry the tracks of the Union Pacific Railroad Company ("UP") over the extension of Charter Oak Road in the City (hereinafter the "Project") and that a portion of the costs be borne by the Grade Crossing Protection Fund (hereinafter the "Fund").

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2. On June 15, 2001, a hearing was held before a duly authorized Administrative Judge at the Commission's Springfield Office.

3. At said hearing, the City requested that the Fund pay 60% of the cost of the Project within the Participation limits, estimated at the time of hearing to be \$10,615,019.00, in the amount not to exceed \$6,369,011.00.

4. On March 13, 2002, an Interim Order was entered and on April 24, 2002, an Amending Interim Order was entered by the Commission in this instant case.

5. In said Amending Interim Order, the Commission granted to the City the permission to construct the highway underpass structure carrying the tracks to the UP over Charter Oak Road.

7. Said Order also ordered the Fund pay 50% of the costs of the project, instead of the 60% as requested by the City. Said Order states that "Fund participation in this project is limited to \$5,229,600.00, or 50% (\$2,614,800.00) in FY 2002 and 50% (2,614,800.00) in FY 2004."

8. Due to the limitations of the "total Fund participation programmed at [that] time" of entry of the Interim Order," the Commission did not grant the City's request for the Fund to pay 60% of the costs of the Project within the Participation limits, instead the Commission ordered the Fund to pay 50% of the costs of the Project within the Participation limits. The City then suffered a shortfall of \$1,139,411.00 for this reduction of the percentage to be paid by the Fund.

9. On April 29, 2003, the City filed a Supplemental Petition Requesting Additional Funding requesting an additional amount of \$1,139,411.00 that would have put the Fund Participation for the Project at the original 60% as originally requested in the City's petition

and/or amending the cost of the Project to the current estimates and requesting the Fund to pay 60% of the increased difference (\$1,153,671.00).

10. On June 24, 2003, the City appeared before Chief Administrative Law Judge Rick Korte on a hearing on the City's Supplemental Petition Requesting Additional Funding and moved to withdraw its Supplemental Petition Requesting Additional Funding.

11. The City still suffers from significant shortfalls from the Fund paying 50% instead of 60% as requested for the costs of the Project within the Participation limits and the costs of the Project being higher than projected.

**WHEREFORE**, Petitioner prays that the Commission enter an order:

- (a) Ordering additional funding from the Fund in the amount of \$500,000.00; or
- (b) Ordering any other amount of funding available in the Fund to reasonably alleviate some of the City's funding shortfalls for this Project.

CITY OF PEORIA


By: Sonni C. Williams  
SONNI C. WILLIAMS  
One of its Attorneys

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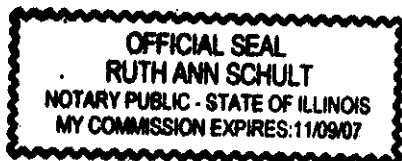
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**VERIFICATION**

I, Gene Hewitt, first being duly sworn upon oath depose and say that I am a City Engineer for the City of Peoria, Peoria, Illinois; that I have read the above and foregoing petition and am familiar with the contents thereof; that said contents are true in substance and in fact; except as to those matters stated upon information and belief, and as to those, I believe same to be true.

  
\_\_\_\_\_  
Gene Hewitt  
City Engineer

Subscribed and sworn to before me this 30<sup>th</sup> day of June, 2004.



  
\_\_\_\_\_  
Notary Public, Illinois

**AFFIDAVIT OF SERVICE**

The undersigned states that he/she served the foregoing Second Supplemental Petition for Additional Funding by causing the same to be deposited in the United States mail in Peoria, Illinois, on the 1<sup>st</sup> day of July 2004 to the following addresses:

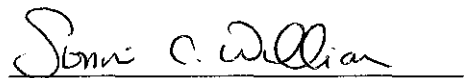
**ILLINOIS COMMERCE COMMISSION**

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